REMARKS

The Final Office Action, mailed June 17, 2005, considered and rejected claims 1-18, 30, 36-38 and 40-44. Claims 1, 3, 5, 7-11, 14-18, 36-38 and 40 were rejected under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent Publication No. 2003/0133043 (Carr) in view of U.S. Patent No. 6,452,598 (Rafey et al) further in view of the ATVEF specification and further in view of U.S. Patent No. 6,567,530 (Keronen et al.) Claims 2, 4, and 30 were rejected under 35 U.S.C. 103 (a) as being unpatenable over U.S. Patent Publication No. 2003/0133043 (Carr) in view of Patent No. 6,452,598 (Rafey et al) further in view of the ATVEF specification and further in view of U.S. Patent No. 6,567,530 (Keronen et al.) and in further view of U.S. Patent No. 6,426,778 (Valdez Jr.). Claims 6 and 12-13 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0133043 (Carr) in view of U.S. Patent No. 6,425,598 (Rafey et al.) further in view of the ATVEF specification and further in view of U.S. Patent No. 6,567,530 (Keronen et al.) and further in view of U. S. Patent No. 6,427,238 (Goodman et al.). [1]

By this paper, claim 1 has been amended and new claim 45 has been added, such that claims 1-18, 30, 36-38 and 40-45 remain pending, of which claims 1 and 38 are the only independent claims at issue, with claim 1 comprising a method claim and claim 38 comprising a corresponding computer program product claim for implementing the method of claim 1.

The present invention is generally directed to embodiments for delivering enhanced programming content. As recited in claim 1, for example, the claimed method includes the act of obtaining a schema document having various data structures, including a timeline data structure that specifies a specific time and order for delivering the other structures of the schema document (e.g., a trigger data structure, an announcement data structure, and a package data structure). The timeline data structure can also include a loop attribute that can be used to

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[1] Although the prior art status and some of the assertions made with regard to the cited art is not being challenged at this time, because it is not necessary, for reasons described herein, Applicants reserve the right to challenge the prior art status and assertions made with regard to the cited art, as well as any official notice, which was taken in the last response, at any appropriate time in the future, should the need arise, such as, for example in a subsequent amendment or during prosecution of a related application. Accordingly, Applicants' decision not to respond to any particular assertions or rejections in this paper should not be construed as Applicant acquiescing to said assertions or rejections.

prevent delivery of the enhanced programming content multiple times. The timeline data structure is analyzed and the authenticity of the schema document is verified against a stored standardized schema document. Thereafter, the various structures of the schema document are delivered as specified by the timeline. As further clarified by the recited claims, the schema document is generic and non-specific to hardware and software modules associated with authoring tools used to create the enhanced programming content, such that delivery of the enhanced programming content is multi-platform compatible.

Applicants respectfully submit that the pending claims are not made obvious by the cited art of record. In fact, Applicants submit that a prima facie case of obviousness was not established for the claims presented in the last amendment. Nevertheless, claim 1 has been amended to add more clarity and to further distinguish over the art of record.

Applicants submit that a prima facie case of obviousness has not been established because the references, alone and in combination, fail to 'teach or suggest all the claim limitations,' as required by statute. MPEP § 2143. In particular, among other things, the cited art fails alone and in combination to teach or suggest a schema document that includes a timeline data structure specifying specific times relative to a specific start time and a particular order for delivering each of the trigger, announcement and package data structures to the receiver. The cited art also fails to teach or suggest a method that includes analyzing the timeline data structure to determine when to deliver each of the trigger, the announcement and the package data structures.

The Examiner has acknowledged the forgoing limitations of the previously cited prior art on Page 4 of the last office action. To overcome this failure, the Examiner has now turned to a new reference, Rafey as apparently teaching the timeline data structure and corresponding analysis thereof to determine the particular order and specific delivery times of the trigger, announcement and package data structures to a receiver. Applicants respectfully submit, however, that Rafey does not teach or suggest these things.

In the Examiner's reference to Rafey, no specific portions of Rafey were cited to. Instead, it was merely asserted that Rafey disclosed the elements that the Examiner has already acknowledged that the other references do not. In Applicant's review of Rafey, we have been unable to find any disclosure that would support the Examiner's assertion that Rafey teaches or suggests 'a timeline data containing instructions regarding timing for the delivery of enhanced

programming content, the timeline data structure specifying specific times, relative to a specific start time, and a **particular order for delivering** each of the **trigger, announcement** and **package data structures** to the receiver, as claimed.

To the contrary, Rafey appears directed to a content creator that can "develop and test 3D content by utilizing a built-in even generation feature in VRML to simulate broadcast triggers." Col. 11, ll. 64-66. In doing this, Rafey discloses the use of "a timelist comprising video triggers, wherein each of the video triggers represents a time at which an event is to occur within a 3-D graphics scene generated using the 3-D graphics platform." Col. 2, ll. 63-67. Rafey also discloses that the methods include "converting the time data from the native VRML data type to a timecode quadruple"...which "represents a timestamp at which an event is expected to occur." Col. 3, ll. 32-33; Col. 7, ll. 52-53.

This disclosure, however, is directed to determining when an event is to occur, "such that the behavior change is synchronized with the simulated video frame in real-time." Col. 3, ll. 13-14. Rafey does not, however, provide a timeline data structure for determining when and in what order data structures are to be delivered to a receiver, as claimed, particularly when considering that the data structures include triggers, announcements and package data structures. In fact, some of these elements are not even considered by Rafey, such as, but not limited to the announcements. In this regard, should the Examiner maintain the same line of reasoning with Rafey, Applicants respectfully request that the Examiner particularly point out which elements in Rafey are considered to be analogous with the triggers, announcements, and package data structures, and where Rafey discloses the determination of time and order for delivering the foregoing, particularly when considering that the delivery may be based on such things as number of frames after which the structures will be delivered (claim 44).

Accordingly, inasmuch as the Examiner has acknowledged that the previously cited art does not disclose these elements, and it should also be abundantly clear from the foregoing that Rafey also fails to disclose or suggest these claim elements, corresponding to the timeline data structure, that a prima facie case of obviousness has not been established. Applicants respectfully submit, however, that this is not the only reason the claims are distinguished over the art of record.

Although not necessary, for at least the foregoing reasons, it will be noted that the claims have been amended to further clarify that the schema document of the present invention is

'generic and non-specific to hardware and software modules associated with authoring tools used to create the enhanced programming content, such that the enhanced programming content is multi-platform compatible.' This new recitation, which is explicitly supported by the disclosure found on pages 18-19 of the specification, is also neither taught nor suggested by the disclosed citations of record. In fact, some references, like the newly cited Rafey reference appear to suggest just the opposite, that their documents are specific to the hardware and software modules associated with the creation of the enhanced programming content, thereby requiring the translation from the native VRML data types into the timecode quadruples, for example.

In view of the foregoing, the rejections of record are now moot, such that it is not necessary to address each of the other assertions of record in the last response. Nevertheless, Applicants reserve the right to challenge any of said assertions in the future. Accordingly, although the foregoing remarks are primarily directed to the independent claims, it will be appreciated that the dependent claims should also be found allowable over the art of record for at least the same reasons. Accordingly, it is not necessary to individually address the rejections to each of the dependent claims at this time. Nevertheless, a few of the dependent claims will be addressed by the following remarks, as discussed during the interview, to even further distinguish the claimed invention over the art of record.

New claim 45, for example, clarifies that the enhanced programming content is delivered in an electronic mail message separately from audio and video programming that it will be displayed with, as supported by the disclosure found on page 24. The cited disclosure of the referenced art fails to consider such an embodiment.

This is also particularly true when considering that the timeline can specify a deliver-by-time (claim 41), which of the trigger and package data structures are delivered first (claim 42), a number of frames after which the structures will be delivered (claim 44) and that the timeline can be zeroed to the beginning of programming (claim 43).

Claims 41-42 and 44, which were added in the last amendment, do not appear to have been fully considered by the Examiner. In fact, the Examiner merely states that these claims are met by the discussion made with regard to claim 1, without considering the specific claim elements recited in these claims. In this regard, Applicants remind the Examiner that in order to establish a prima facie case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143 (emphasis added).

Further, "[i]n determining the difference between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." MPEP § 2141.02. In light of these requirements, the prior art must illustrate specifically each limitation without improper combinations to show elements that simply do not exist in the cited references. In other words, it is improper to reject the claims as obviously stating what one of skill in the art might have done without specifically citing where such an element is disclosed.

Furthermore, with regard to claim 43, the Examiner also states that it would have been clearly obvious to zero the timeline at the beginning of programming to provide a time reference relative to the programming. In this regard, Applicants disagree. Initially, Applicants would like to point out that that the simple fact that something may be possible, does not make it obvious. In particular, the "FACT THAT THE CLAIMED INVENTION IS WITHIN THE CAPABILITIES OF ONE OF ORDINARY SKILL IN THE ART IS NOT SUFFICIENT BY ITSELF TO ESTABLISH *PRIMA FACIE* OBVIOUSNESS." MPEP § 2143.01. This is true even all of the elements are taught by the cited art, which they clearly aren't in this case. Accordingly, even if zeroing the timeline data structure may provide a time reference relative to programming, the cited art needs to show this, and there also needs to be a motivation for doing this, which is found in the art, particularly when considering that there are many other ways to provide references to programming, without zeroing a timeline data structure, such as with the use of timestamps.

Furthermore, Applicants also point out that with regard to any art or official notice that might be combined by the Examiner, that the motivation for making such a combination must come from the references themselves, otherwise such a combination represents impermissible hindsight. In particular, as stated by the MPEP § 2143, "The teaching or suggestion to make the claimed combination and the reasonable expectation of success must **both** be found in the prior art, not in application's disclosure." MPEP 2143. In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991)(emphasis added).
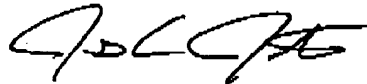
For at least these reasons, Applicants respectfully submit that the cited art, alone and in combination, fails to make obvious the claimed invention and that all of the pending claims (1-18, 30, 36-38 and 40-45) should now be found in condition for allowance.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this ___*2b*___ day of July, 2005.

Respectfully submitted,

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Page 12 of 12